

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

IN RE: BOSTON SCIENTIFIC CORP.
PELVIC REPAIR SYSTEM PRODUCTS LIABILITY
LITIGATION

MDL No. 2326

THIS DOCUMENT RELATES TO THE FOLLOWING CASES:

Civil Action Nos. *Canterbury v. Boston Scientific Corporation*, 2:12-cv-08633 (Lead Case);
 Hendricks, et al. v. Boston Scientific Corporation, 2:13-cv-03633
 (Member Case);
 Moore v. Boston Scientific Corporation, 2:13-cv-08802 (Member Case);
 Tyree, et al. v. Boston Scientific Corporation, 2:13-cv-14397 (Member
 Case);
 Campbell v. Boston Scientific Corporation, 2:13-cv-18786 (Member
 Case);
 Blankenship v. Boston Scientific Corporation, 2:13-cv-22906 (Member
 Case);
 Pugh, et al. v. Boston Scientific Corporation, 2:14-cv-01565 (Member
 Case);
 Wilson v. Boston Scientific Corporation, 2:14-cv-05475 (Member Case).

**Pretrial Order # 105
(First Amended Docket Control Order on Consolidated West Virginia Cases)**

I recently amended the Docket Control Order applicable to the Florida consolidated cases in this MDL, which now necessitates a change in the trial date of these cases. In particular, I have made changes to paragraphs 10, 11, 12, 13, 14 and 15. Accordingly, it is **ORDERED** that the following deadlines apply in the above-referenced cases:

1. *Plaintiff Fact Sheets*. By **April 1, 2014**, each Plaintiff in the above-captioned cases must serve a substantively completed Plaintiff Fact Sheet (PFS) and Medical Authorizations. If a Plaintiff in any of the above-captioned cases fails to provide a substantially complete

PFS or executed authorization by this deadline, Boston Scientific may file a Request for a Show Cause Order why the case should not be dismissed.

2. Defendant Fact Sheets. By **April 30, 2014**, each Defendant shall serve a substantially completed Defendant Fact Sheet (DFS) for each of the above-captioned cases, including the disclosure of the identity of all sales representatives for each of the above-captioned cases and the custodial file for the identified sales representative.
3. Bellwether Experts. If either Plaintiffs or Boston Scientific designate the same expert on the same report as designated pursuant to Pretrial Order # 57 (First Amended Docket Control Order: First and Second Bellwether Trials), no additional depositions of such experts shall be taken except by agreement of the parties and/or leave of Court.
4. Plaintiffs' Expert Reports. On **May 11, 2014**, plaintiffs shall serve expert reports and provide proposed deposition dates to occur by **July 1, 2014**.
5. Defendants' Expert Reports/Rebuttal Expert Reports. On **June 1, 2014**, defendants shall serve expert reports and provide proposed deposition dates to occur by **August 1, 2014**. Plaintiffs shall serve rebuttal expert reports by **July 1, 2014**.
6. Written Discovery. Parties shall serve any and all final, non-duplicative case specific written discovery no later than **June 13, 2014**.
7. Expert Discovery. Expert Discovery shall be completed by **August 1, 2014**.
8. Case-Specific Discovery. Discovery in the bellwether cases shall be completed by **July 28, 2014**.
9. Motion Practice.
 - a. *Daubert* Motions and Non-*Daubert* based Dispositive Motions shall be filed by **August 1, 2014**. Response briefs shall be filed by **August 11, 2014**. By party

- agreement, no reply briefs shall be filed for *Daubert* Motions. Reply briefs for Non-*Daubert* based Dispositive motions shall be filed by **August 15, 2014**.
- b. *Daubert*-based Dispositive motions and motions in limine shall be filed by **August 28, 2014**. Response briefs shall be filed by **September 2, 2014**. Motions in Limine are limited to 3 pages each, responses are limited to 2 pages each. By party agreement, no reply briefs shall be filed for *Daubert*-based Dispositive motions and motions in limine.
 - c. Dates for summary judgment and *Daubert* hearings, if any, will be set at an upcoming status conference.
 - d. Local Rule of Civil Procedure 7.1(a)(2) applies regarding the page limits on memoranda in support of dispositive motions as well as responses and replies. The court will not be inclined to grant motions to exceed the page limit. The Court requests that the parties abide by Local Civil Rule 7.1(a)(5) regarding courtesy copies and that any courtesy copies include the header containing the docket number.
 - e. The parties may file placeholder exhibits for documents with potential sealing issues. However, within five days of filing, the party who filed the at-issue exhibits must either file the appropriate motion to seal or file a motion with the at-issue exhibits (dedesignated or redacted) attached asking that the court direct the Clerk to replace the placeholder exhibits with the attached exhibits.
10. Deposition Designations. Deposition designations shall be filed by **October 10, 2014**. Any objections to an opposing party's designations, and any counter-designations shall be filed by **October 20, 2014**. Any objections to the counter-designations, and any

counter-designations to an opposing party's counter-designations, shall be filed by **October 27, 2014**.

11. Exhibit and Witness Lists. The parties will exchange exhibit and witness lists by **October 9, 2014**.

12. Proposed Pretrial Order. The parties shall file a proposed integrated pretrial order pursuant to Fed. R. Civ. P. 16 3 days prior to the pretrial conference. The proposed integrated pretrial order, signed by all counsel and unrepresented parties, shall set forth the matters listed in Local Civil Rule 16.7(b).

13. Pretrial and Final Settlement Conference. The Court shall conduct a final pretrial conference on **October 8, 2014 at 9:00 am EST** and will notify the parties as to the date of a final settlement conference.

14. Proposed Jury Instructions. The parties shall file proposed jury instructions in charge form on substantive theories of recovery or defense, on damages and on evidentiary matters peculiar to the case, and special interrogatories, if any be appropriate to the case, along with a proposed verdict form on **October 24, 2014**. The court requests that the parties email the proposed jury instructions to the court's law clerk in Word format.

15. Trial. Trial shall commence on **November 3, 2014 at 8:30 a.m.**

The court DIRECTS the Clerk to file a copy of this order in 2:12-md-2326 **and the above-referenced lead case 2:12-cv-8633** and it shall apply to each member related case previously transferred to, removed to, or filed in this district, which includes counsel in all member cases up to and including civil action number 2:14-cv-23712. In cases subsequently filed in this district, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action at the time of filing of the complaint. In cases subsequently

removed or transferred to this court, a copy of the most recent pretrial order will be provided by the Clerk to counsel appearing in each new action upon removal or transfer. It shall be the responsibility of the parties to review and abide by all pretrial orders previously entered by the court. The orders may be accessed through the CM/ECF system or the court's website at www.wvsd.uscourts.gov.

ENTER: July 18, 2014



JOSEPH R. GOODWIN
UNITED STATES DISTRICT JUDGE